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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION  
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11 SEAN MICHAEL BRADLEY, ) No. CV 11-03137-CJC (VBK)  
12 )  
13 Petitioner, ) ORDER SUMMARILY DISMISSING PETITION  
14 ) FOR WRIT OF HABEAS CORPUS FOR LACK  
15 v. ) OF SUBJECT MATTER JURISDICTION  
16 )  
17 JOHN F. SALAZAR, )  
18 )  
19 Respondent. )  
20 )  
21 )  
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23 )  
24 )

25 On April 13, 2011, Sean Michael Bradley (hereinafter referred to  
26 as "Petitioner") filed a "Petition for Writ of Habeas Corpus"<sup>1</sup>  
27 ("Petition"). Following a jury trial in Los Angeles County Superior  
28 Court, Petitioner was convicted of one count of lewd action upon a  
child under the age of fourteen in violation of California Penal Code  
("PC") §288(a). Petitioner was sentenced to prison for eight years.  
(See Petition at 2-6.) Petitioner has raised the following claim in

<sup>1</sup> This Petition was lodged in the United States District Court for  
the Central District of California on March 14, 2011. It appears that  
Petitioner wanted to file this Petition as a "First Amended Petition"  
in Case No. CV 09-07482-CJC (VBK). However, a Report and  
Recommendation was issued in that case on December 10, 2010,  
Petitioner was granted two extensions of time to file Objections to  
the Report and Recommendation, which he ultimately filed on February  
24, 2011, and Judgment was entered dismissing the Petition with  
prejudice on March 9, 2011.

1 the within Petition: (1) Petitioner's conviction must be reversed  
 2 because he was denied effective assistance of counsel under the Sixth  
 3 Amendment and Due Process under the Fourteenth Amendment. (Id.)

4 It appears from the face of the Petition that it is directed to  
 5 the same 2007 Los Angeles County Superior Court conviction as a prior  
 6 habeas petition filed by Petitioner in this Court on October 15, 2009,  
 7 in Case No. CV 09-07482-CJC (VBK).<sup>2</sup> On March 9, 2011, Judgment was  
 8 entered in Case No. CV 09-07482-CJC (VBK) denying the petition and  
 9 dismissing the action with prejudice, pursuant to the District Judge's  
 10 Order approving and adopting the Magistrate Judge's Report and  
 11 Recommendation.

12 The Petition now pending is governed by the provisions of the  
 13 Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. 104-  
 14 132, 110 Stat. 1214)("the Act"), which became effective April 24,  
 15 1996. Section 106 of the Act amended 28 U.S.C. § 2244(b) to read, in  
 16 pertinent part, as follows:

17 "(1) A claim presented in a second or successive habeas  
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19 <sup>2</sup> The Court takes judicial notice of its own files and records.  
 20 See Mir v Little Co. of Mary Hosp., 844 F.2d 646, 649 (9<sup>th</sup> Cir. 1988).  
 21 On October 15, 2009, Petitioner filed a "Petition for Writ of Habeas  
 22 Corpus by a Person in State Custody" which was given Case No. CV 09-  
 23 07482-CJC (VBK). In this Petition, Petitioner raised the following  
 24 claims: (1) "The trial court's preclusion of pertinent aspects of key  
 25 defense witness's testimony ... deprived [Petitioner] of his  
 26 constitutional right to present a defense" (ground one); (2)  
 27 "[Petitioner]'s constitutional rights to due process and ...  
 28 confrontation were denied by the trial court's restrictions on the  
 cross-examination of" the alleged victims" (ground two); (3) "CALJIC  
 No. 10.41 [was] impermissibly argumentative" (ground three); (4) "The  
 trial court committed prejudicial error in preventing trial counsel  
 from discussing a publicized case during [closing] argument" (ground  
 four); (5) "Judicial misconduct infected the proceedings" (ground  
 five); and (6) "The prosecutor committed prejudicial misconduct by  
 referring to facts not produced in evidence at trial" (ground Six).  
 (Pet. Memo. at (ii)-(iii).)

1 corpus application under section 2254 that was presented in a  
2 prior application shall be dismissed unless--

3 (A) the applicant shows that the claim relies on a new  
4 rule of constitutional law, made retroactive to cases on  
5 collateral review by the Supreme Court, that was previously  
6 unavailable; or

7 (B)(i) the factual predicate for the claim could not  
8 have been discovered previously through the exercise of due  
9 diligence; and

10 (ii) the facts underlying the claim, if proven and  
11 viewed in light of the evidence as a whole, would be  
12 sufficient to establish by clear and convincing evidence  
13 that, but for constitutional error, no reasonable factfinder  
14 would have found the applicant guilty of the underlying  
15 offense.

16 (3)(A) Before a second or successive application permitted  
17 by this section is filed in the district court, the applicant  
18 shall move in the appropriate court of appeals for an order  
19 authorizing the district court to consider the application."

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21 The Petition now pending constitutes a second and/or successive  
22 petition challenging the same conviction as Petitioner's prior habeas  
23 petition, within the meaning of 28 U.S.C. § 2244(b). Thus, it was  
24 incumbent on Petitioner under § 2244(b)(3)(A) to secure an order from  
25 the Ninth Circuit authorizing the District Court to consider the  
26 Petition, prior to his filing of it in this Court. Petitioner's  
27 failure to do so deprives the Court of subject matter jurisdiction.

28 For the foregoing reasons, **IT IS ORDERED** that this action be

1 summarily dismissed pursuant to Rule 4 of the Rules Governing Section  
2 2254 Cases in the United States District Courts.

3 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

4  
5 DATED: April 20, 2011

  
6 CORMAC J. CARNEY  
7 UNITED STATES DISTRICT JUDGE

8 Presented on  
9 April 15, 2011 by:

10 /s/  
11 VICTOR B. KENTON  
12 UNITED STATES MAGISTRATE JUDGE  
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